

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
)	
)	
v.)	Criminal No. 4:04-cr-40002-NMG
)	
)	
JOSEPH DiFLUMERA)	
)	

**DEFENDANT'S MOTION TO CONTINUE
PLEA AND SENTENCING DATE**

Defendant Joseph DiFlumera, by and through his attorney, hereby moves the Court for a continuance of thirty (30) days of the date set for plea and sentencing in this case (presently June 2, 2004). In support of this motion, DiFlumera states as follows:

1. Due to scheduling difficulties on the part of the defendant and his counsel, and the fact that DiFlumera resides in Florida, the Probation Department was only able to conduct the initial presentence interview of DiFlumera earlier this week.
2. Counsel for DiFlumera received a copy of the Government's offense version yesterday and deems it necessary to a fair and just assessment of this matter to submit a separate defendant's offense version.
3. Under the current schedule, with the plea and sentencing date scheduled for June 2nd, an initial draft of the Presentence Report must be distributed to counsel within two weeks. This will require that a draft of the report be circulated internally with the Probation Department sometime early next week, before the Probation Officer receives all of the material and information that she should have to complete her work.

4. Additional time is needed for: (i) submission of a written offense version by the defense, and (ii) the collection and submission of various financial, medical, employment and other background information concerning DiFlumera.

Specifically, DiFlumera - - who is nearly seventy (70) years of age and in poor health - - wishes to obtain and submit to Probation a written narrative from his primary physician describing his current health problems, the treatment(s) he is under, and medication(s) that have been prescribed.
5. The modest continuance requested is in the interests of justice. DiFlumera waives the applicable Speedy Trial requirements and requests that the additional time be excluded under the Speedy Trial Act, pursuant to 18 U.S.C. §3161(h)(8).

WHEREFORE, DiFlumera respectfully requests that this motion be allowed.

By his attorney,

/s/ Paul V. Kelly
Paul V. Kelly
KELLY, LIBBY & HOOPES, P.C.
175 Federal Street
Boston, MA. 02110
(617) 338-9300

April 13, 2004